

APPEAL FROM ORDER No 58 of 1999

Hon'ble MR.JUSTICE A.R.DAVE

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- [illegible]

- AHMEDABAD ELECTRICITY CO. LTD.

Versus

MOHAMMED RAFIQ M PATHAN

Appearance:

MR KB PUJARA for Petitioner

MR AD DESAI for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 06/09/1999

ORAL JUDGEMENT

The respondent-plaintiff was being supplied electricity by the appellant-defendant. During the

course of one usual inspection, it was found that the respondent-plaintiff had tampered with the metre and had supplied electricity to somebody else in violation of the conditions on which the electricity was being supplied to him. It was also found that the respondent-plaintiff was using load which was much higher than the sanctioned load. In the above circumstances, electricity supply to the respondent-plaintiff was disconnected. The respondent-plaintiff has filed Civil Suit No.5942/98 praying for re-connection of the electricity supply. He had also submitted an application below Exh.6 for an interim injunction. Ultimately, after hearing the concerned parties, the trial court was pleased to direct the appellant-defendant to restore electricity supply to the respondent-plaintiff without any condition. Feeling aggrieved by the said order passed on 27.1.1999 by the Judge, City Civil Court, Court No.19, the present appellant-defendant, Ahmedabad Electricity Company Ltd. has approached this Court.

2. After hearing the learned Advocates for the parties and looking to the circumstances in which the matter is finally disposed of, it is not necessary to go into details of the arguments advanced by the learned Advocates.

3. In view of the judgment delivered in the case of Punjab Electricity Board v. Ashwani Kumar, reported in 1997 (5) SCC 120 and the conditions on which the electricity was being supplied to the respondent-plaintiff, the learned Advocates have agreed for disposal of the matter in the following manner:

4. The respondent-plaintiff will withdraw the suit so as to file an appeal before the Appellate Authority under the provisions of "Conditions of Supply and Miscellaneous Charges" framed under the provisions of Section 21(2) of the Indian Electricity Act, 1910. The respondent-plaintiff shall pay 20% of the total amount due and payable by the respondent-plaintiff immediately to the appellant-defendant and upon the said amount being paid, the appellant-defendant shall start supply of electricity to the respondent-plaintiff. A further sum of 20% of the amount payable shall be paid by the respondent-plaintiff on or before 31.10.1999 and thereafter a further 20% of the total amount payable shall be paid by the respondent-plaintiff on or before 30.11.1999. Thus, 60% of the amount which is payable at present shall be paid before 30.11.1999. If the amount as agreed to be paid is not paid, it will be open to the appellant-defendant to disconnect the electricity supply

without giving any notice to the respondent-plaintiff.

5. As a special case and in view of the observations made by this Court (Coram: M S Shah, J.) in an order passed in Appeal from Order No.349/97 on 20.8.1999, some leniency in the matter of payment of electricity charges is shown to the respondent-plaintiff. It is hoped that the appeal filed by the respondent-plaintiff shall be decided on or before 30.12.1999.

7. In view of the aforesaid order, this Appeal from Order is allowed with no order as to costs.

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msp.